

## **REMARKS**

The only issues outstanding in the Office Action of April 1, 2009, are the rejections under 35 U.S.C. 103 and the doctrine of obviousness-type double patenting. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

### **Rejection Under 35 U.S.C. 103**

Claims 1, 3-4, 8-9 and 11 remain rejected under 35 U.S.C. 103 over Andou ('740 or '223). Reconsideration of this rejection is again respectfully requested. At page 2 of the Office Action, it is argued that the reference discloses compounds of a formula (1) which read on formula (1A) in the present claims. The Office Action notes, at page 3, three example compositions which contain a compound of formula I of Andou. However, each of these three compositions lacks a compound of formula IA in accordance with the invention, containing a 4-ring compound wherein at least one of Z<sup>1</sup> or Z<sup>2</sup> is -CF<sub>2</sub>O- or OCF<sub>2</sub>- . Specifically, the ring structure in composition example 8 is HBCF<sub>2</sub>OB, the relevant ring in composition example 28 is HBCF<sub>2</sub>OB and in use example 26 is HHCF<sub>2</sub>OB. Thus, 4-ringed compounds in accordance with formula IA of the present claims are *not* disclosed in the mixtures of the reference.

Despite this, it is argued at page 4 of the Office Action that, although the examples lack a compound of formula IA, such compounds are disclosed in a generic sense in various portions of the reference and would be "equivalent" to the first compound in the examples. However, as one of ordinary skill in the liquid crystalline art knows, the addition of a ring structure in a compound does not necessarily result in a predictable result. Accordingly, it is submitted that, in the absence of a specific teaching of equivalence, allowing a conclusion of predictable results, it would not be obvious to make the substitution alleged in the Office Action. Accordingly, withdrawal of the rejection is respectfully requested.

**Double Patenting**

The three double patenting rejections have been maintained. Applicant's traversal of these rejections is further maintained for the reasons of record. Reconsideration thereof is again respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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